

**CERCLA 104(e) INFORMATION REQUEST**  
**URGENT LEGAL MATTER: PROMPT REPLY REQUESTED**  
**CERTIFIED MAIL, RETURN RECEIPT REQUESTED #XXXX XXXX XXXX XXXX XXXX**

LETTERS TO SAND BUYERS.  
XXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXX

Re San Jacinto River Waste Pits Superfund Site, Channelview. TX  
SSID No. 06ZQ, EPA ID No. TXN000606611

Dear Sir/Madam:

The U.S. Environmental Protection Agency (EPA) seeks cooperation from the XXXXXXXXXXXX (Respondent) in providing information and documents relating to the San Jacinto River Waste Pits Superfund Site (Site). Obtained information will aid the EPA in its investigation of the release or threat of release of certain hazardous substances, pollutants or contaminants at this Site. Your response will also help the EPA develop a better understanding of activities that occurred at the Site.

This information request is not a determination that you are responsible or potentially responsible for contamination that occurred at the Site. The EPA is sending this letter as part of its investigation of the Site and does not expect you to pay for or perform any site-related activities at this time. If the EPA determines that you are responsible or potentially responsible for response activities at the Site, you will receive a separate letter clearly stating such a determination as well as the basis the EPA has for the determination.

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 104(e). 42 U.S.C. § 9604(e), gives the EPA the authority to require the respondent to respond to this information request (see Enclosure 1). We encourage you to give this matter its full attention, and we respectfully request you to respond to this request for information within thirty (30) days of receipt of this letter. You may designate another official with the requisite authority to respond on behalf of yourself. However, failure to respond to this information request may result in the EPA seeking penalties of up to \$37,500 per day of violation. In addition, furnishing false, fictitious or fraudulent statements or representations is subject to criminal penalty under 18 U.S.C. § 1001.

Please provide a written response to Mr. Robert Werner, Enforcement Officer, at the address included in the Information Request. Please refer to Enclosure 2 for important instructions and definitions and Enclosure 3 for specific questions that require your response to this Information Request.

If you have any questions regarding this letter, contact Mr. Werner at (214) 665-6724. For legal questions concerning this letter, please have your legal counsel contact Ms. Amy Salinas, at (214) 665-8063. Thank you for your attention to this matter.

Sincerely,

Ben Banipal, P.E., Associate Director  
Technical and Enforcement Branch  
Superfund Division

Enclosures (4)

## **ENCLOSURE 1**

### **SAN JACINTO RIVER WASTE PITS SUPERFUND SITE INFORMATION REQUEST**

#### **RESPONSE TO INFORMATION REQUEST**

Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the federal "Superfund" law, the U.S. Environmental Protection Agency (EPA) responds to the release or threat of release of hazardous substances, pollutants or contaminants into the environment to stop additional contamination and to clean-up or otherwise address any prior contamination.

The EPA is requesting information under CERCLA Section 104(e). Section 104(e) may be found in the United States Code (U.S.C.) at Title 42 Section (section is denoted by the symbol "§") 9604(e). 42 U.S.C. § 9604(e).

Pursuant to the authority of CERCLA §104(e), you are hereby requested to respond to the enclosed information request. If you have any questions concerning the Site's history or this information request letter, please contact Mr. Robert Werner, the designated Enforcement Officer for the Site, at phone number (214) 665-6734, fax number (214) 665-6660, or via email at [Werner.robert.gov](mailto:Werner.robert.gov). Please mail your response within 30 calendar days of your receipt of this request to the following address:

Mr. Robert Werner, Enforcement Officer  
Superfund Enforcement Assessment Section (6SF-TE)  
U.S. EPA, Region 6  
1445 Ross Avenue  
Dallas, TX 75202-2733

If you or your attorney has legal questions that pertain to this information letter request, please contact Ms. Amy Salinas at phone number (214) 665-8063, fax number (214) 665-6460, or via email at [salinas.amy@epa.gov](mailto:salinas.amy@epa.gov). For contact via mail, use the following address:

Ms. Amy Salinas  
Office of Regional Counsel (6RC-S)  
U. S. EPA Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

#### **BACKGROUND INFORMATION**

The Site is located east of the City of Houston in Harris County in the State of Texas in the area where the Interstate Highway 10 Bridge (I-10) crosses over the San Jacinto River. The Site's known land area is a 20-acre tract of land (Tract). This Tract is adjacent to the north side of I-10 and the west side of the San Jacinto River. This Tract is located in an unincorporated area known as Channelview. The area of the San Jacinto River that is within the Site's boundaries is north, east and south of the Tract. This area of the San Jacinto River is located between the two unincorporated areas known as Channelview and as Highlands. The Site itself has no specific street address.

Soil samples taken from the Tract and from river sediments in areas of the San Jacinto Rivers that are north, east, and south of the Tract have confirmed the presence of certain hazardous materials, including dioxin. River sediment in this area is suspected to be contaminated with certain hazardous materials, including dioxin, which might have migrated from the Tract. The EPA has evidence that indicates dioxin had been transported to the Tract in waste paper mill sludge that had been released onto the Tract during the 1960's.

Virgil C. McGinnes, Trustee is the Tract's current owner of record. Virgil C. McGinnes is deceased. Three exposed abandoned waste disposal pits are located on this abandoned Tract. The three abandoned waste pits cover an area that approximates 3.5 acres of the abandoned Tract's 20-acre area. Part of the abandoned Tract, including the abandoned disposal pits, is now below the adjacent San Jacinto River's water surface.

Samples collected in the area of the abandoned waste pits and in river sediments in the areas that are north, east, and south of these pits have dioxin concentrations as high as 41,300 parts per trillion. Sediments contaminated with high levels of dioxin have been found in the San Jacinto River for a distance of at least one-half mile downstream from the disposal pits.

On September 19, 2007, (72 FR 53509) the Site was proposed for listing on the National Priorities List(NPL). On March 19, 2008, (73 FR 14179) the final listing of the Site onto the NPL occurred.

## ENCLOSURE 2

### SAN JACINTO RIVER WASTE PITS SUPERFUND SITE INFORMATION REQUEST

#### INSTRUCTIONS and DEFINITIONS

##### INSTRUCTIONS

1. Please provide a separate narrative response for each and every Question and subpart of a Question set forth in this Information Request.
2. Precede each answer with the Question (or subpart) and the number of the Question (and the letter of a subpart of a Question, if applicable) to which it corresponds.
3. If information or documents not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, ***you must supplement*** your response to the U.S. Environmental Protection Agency (EPA). Moreover, should you find, at any time, after submission of your response, that any portion of the submitted information is false or misrepresents the truth, or, though correct when made, is no longer true, you must notify the EPA of this fact as soon as possible and provide the EPA with a corrected response.
4. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question (and the letter of a subpart of a Question, if applicable) to which it responds.
5. You may assert a business confidentiality claim covering part or all of the information which you submit in response to this request. Any such claim must be made by placing on (or attaching to) the information, at the time it is submitted to the EPA, a cover sheet or a stamped or typed legend or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Confidential portions of otherwise non-confidential documents should be clearly identified and may be submitted separately to facilitate identification and handling by the EPA. If you make such a claim, the information covered by that claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in subpart B of 40 CFR Part 2. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to you. The requirements of 40 CFR Part 2 regarding business confidentiality claims were published in the Federal Register on September 1, 1976, and were amended September 8, 1976, and December 18, 1985.
6. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy should be segregated from your responses, included on separate sheet, and marked as "Personal Privacy Information."
7. Objections to questions. If you have objections to some or all the questions within the Information Request Letter, you are still required to respond to each of the questions.

## **DEFINITIONS**

The following definitions shall apply to the following words as they appear in this enclosure:

1. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
2. The term "any", as in "any documents" for example, shall mean "any and all."
3. The term "arrangement" means every separate contract or other agreement between two or more persons, whether written or oral.
4. The terms "document(s)" and "documentation" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, telecopy, telefax, report, notice, message, analysis, comparison, graph, chart, map, interoffice or intra office communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with the printouts of such punch card, disc, or disc pack, tape or other type of memory); and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document and (e) every document referred to in any other document.
5. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA, and includes any mixtures of such hazardous substances with any other substances, including mixtures of hazardous substances with petroleum products or other nonhazardous substances.
6. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business and personal addresses, email address(es), and telephone numbers, and present or last known job title, position or business. Also provide e-mail addresses.
7. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including, but not limited to, a sole proprietorship), to set forth its full name, address, and legal form (e.g. corporation [including state of incorporation], partnership, etc.), organization, if any, a brief description of its business, and to indicate whether or not it is still in existence and, if it is no longer in existence, to explain how its existence was terminated and to indicate the date on which it ceased to exist. Also provide e-mail addresses.

8. The term "identify" means, with respect to a document, to provide the type of document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), subject matter, the identity of the author, addressor, addressee and/or recipient, and the present location of such document.
9. The term "material" or "materials" shall mean any and all objects, goods, substances, or matter of any kind, including but not limited to wastes.
10. The term "person" shall have the same definition as in Subsection 101 (21) of CERCLA, 42 U.S.C. § 9601 (21).
11. The term "release" shall have the same definition as that contained in Section 101(22) of CERCLA, and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.
12. The term "Site" or "facility" shall mean and include the San Jacinto River Waste Pits Superfund Site located east of the City of Houston in Harris County in the State of Texas in the area where the Interstate Highway 10 Bridge (I-10) crosses over the San Jacinto River, both before and after EPA response action under CERCLA.
13. The term "you" or "Respondent" shall mean the addressee of this Request, the addressee's officers, managers, employees, contractors, trustees, partners, successors and agents.
14. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
15. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 CFR Part 300 or 40 CFR Parts 260-280, in which case the statutory or regulatory definitions shall apply.

## ENCLOSURE 3

### SAN JACINTO RIVER WASTE PITS SUPERFUND SITE INFORMATION REQUEST

#### QUESTIONS

1. Identify the person that provides answers to the questions below on behalf of the **XXXXXXXXXX** (Respondent).
2. Does the Respondent wish to designate an individual for future correspondence from the EPA concerning this matter? If yes, please provide the individual's name, address, telephone number, and fax number.
3. Please provide Respondent's current legal name, previous legal name, fictitious name, Federal Identification Number, mailing address, phone number, and fax number.
4. Please identify the Respondent's corporate parent and all of the Respondent's corporate subsidiaries.
5. Please identify the beginning date and, if applicable, the ending date during which Respondent is/was recognized by the Texas Secretary of State to conduct business in the State of Texas.
6. If Respondent's business organization is/was not recognized by the Texas Secretary of State, please identify the beginning date and, if applicable, the ending date during the period Respondent conducted business activities in any state.
7. For a relatively short period of time after November 20, 1998, MegaSand Enterprises, Inc. (MEI) had dredged sand from an area of the San Jacinto River. The dredged area was adjacent to a 20-acre tract of land that was/is contaminated with certain hazardous materials, including dioxin. The 20-acre tract of land is within the Site's boundaries. The EPA believes the dredged sand might be contaminated with certain hazardous materials, including dioxin, that could have migrated from the 20-acre tract of land.

MEI has advised the EPA that it sold the above described dredged sand to thirteen different customers (see Enclosure 4). Your business entity is one of thirteen entities that MEI claims to have sold quantities of the dredged sand too.

Please answer the following questions that pertain to your purchase and use of the above described sand:

- A. Do you acknowledge that your company purchased some of the above described sand from MEI?. If your response to this question is yes, please provide a copy of your purchase invoice(s) that documents your purchase.
- B. Did **your company combine** any of the purchased sand with other materials for encasement in structures, i.e., concrete for residential and/or commercial, concrete for roadways, concrete for pipes and/or culverts, etc? If your response is yes:



- 1) Identify all structure(s) for which the purchased sand was incased in concrete and/or other solid object.
  - 2) Identify the present status for all structures in which you incased the sand.
- C. Did **your company resell** any of purchased sand to other parties before your company had combined it with other materials for encasement in solid structures? If your response is yes:
- 1) Identify the name and address for persons/business that purchased the sand from you.
  - 2) If know, please identify the purchaser's intended use for the sand.

**ENCLOSURE 4**

**SAN JACINTO RIVER WASTE PITS SUPERFUND SITE  
INFORMATION REQUEST**

**SUPPORTING DOCUMENTS**

Copy of response from MegaSand Enterprises, Inc. that lists names and addresses of all persons and/or entities to which it had sold sand that it had dredged from an area of the San Jacinto River; same area being adjacent to a 20-acre tract of land that is contaminated with certain hazardous materials, including dioxin.